

1 ANTHONY P. SGRO, ESQ.
2 Nevada Bar 3811
3 COLLEEN N. SAVAGE, ESQ.
4 Nevada Bar 14947
5 SGRO & ROGER
6 720 S. 7th Street, 3rd Floor
7 Las Vegas, Nevada 89101
8 Telephone: (702) 384-9800
9 Facsimile: (702) 665-4120
10 tsgro@sgroandroger.com
11 csavage@sgroandroger.com

12 AXS LAW GROUP, PLLC
13 Courtney Caprio (*Admitted Pro Hac Vice*)
14 Florida Bar No. 933961
15 Jeffrey W. Gutchess (*Admitted Pro Hac Vice*)
16 Florida Bar No. 702641
17 Andrew E. Beaulieu (*Admitted Pro Hac Vice*)
18 Florida Bar No. 115097
19 2121 NW 2nd Avenue, Suite 201
20 Miami, Florida 33127
21 Telephone: 305-297-1878
22 courtney@axslawgroup.com
23 jeff@axslawgroup.com
24 andy@axslawgroup.com
25 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
17 DISTRICT OF NEVADA

18 MAURICIO JASSO, individually and in his
19 capacity as the Court-Appointed Receiver of
20 JAMA INVESTMENT GROUP, INC.,
21 GUILLERMO SESMA, SYLVIA MARTINEZ
22 SALINAS, BELISARIO JASSO BALDINI,
23 JAVIER RAMIREZ LARES, ANTONIO
24 BACHALANI, RODRIGO FERNANDEZ,
25 JUAN ROMERO and BERNARDO
26 VILLACECIAS,

27 Plaintiffs,
28

29 vs.
30 WELL'S FARGO BANK, N.A., KATHERINE
31 DARRALL and JOSE RICO,
32

33 Defendants.

34 Case No. 2:20-CV-00858-RFB-BNW

**PLAINTIFFS' MOTION FOR LEAVE TO
FILE UNDER SEAL EXHIBIT A TO
MOTION FOR RECONSIDERATION**

1 Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and Local Rule IA 10-5,
2 Plaintiffs, Mauricio Jasso, individually and in his capacity as court-appointed Receiver of JAMA
3 Investment Group, Inc. (the “Receiver”), Guillermo Sesma, Sylvia Martinez Salinas, Belisario
4 Jasso Baldini, Javier Ramirez Lares, Antonio Bachalani, Rodrigo Fernandez, Juan Romero and
5 Bernardo Villacecias (collectively, “Plaintiffs”), by and through counsel, move for an order
6 permitting Plaintiffs to file under seal Exhibit A to their contemporaneously filed Motion for
7 Reconsideration, in addition to the portions of the Motion and/or other exhibits discussing that
8 document. Exhibit A has been designated “Highly Confidential” by Wells Fargo, and the Parties’
9 Stipulated Protective Order requires such documents to be filed under seal. This Motion is based
10 upon the following Memorandum of Points and Authorities and the attached Stipulated
11 Protective Order [D.E. 25].

12 DATED: October 21, 2021

13 SGRO & ROGER

14 BY: /s/ Anthony P. Sgro
15 Anthony P. Sgro, Bar No. 3811
16 Colleen N. Savage, Bar No. 14947
720 S. 7th Street, 3rd Floor
Las Vegas, Nevada 89101

17 AND

18 AXS LAW GROUP, PLLC
19 Jeffrey W. Gutchess
Florida Bar No. 702641
jeff@axslawgroup.com
20 Courtney Caprio
Florida Bar No. 933961
courtney@axslawgroup.com
21 Andrew E. Beaulieu
Florida Bar No. 115097
andy@axslawgroup.com
22 2121 NW 2nd Avenue, Suite 201
Miami, Florida 33127
23 *Attorneys for Plaintiffs*

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MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiffs submit the following Memorandum of Points and Authorities in support of their Motion for Leave to File Under Seal Exhibit A to the Motion for Reconsideration, in addition to the portions of the Motion that discuss that Exhibit.

I. LEGAL ARGUMENT

Pursuant to Federal Rule of Civil Procedure 5.2(d), “[t]he court may order that a filing be made under seal without redaction.” To determine whether to seal a particular filing, courts must “conscientiously balance the competing interests’ of the public and the party who seeks to keep certain judicial records secret.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). If, after balancing these interests, a court decides to seal certain records, it must “articulate the factual basis for its ruling.” *Id.* (citation omitted).

Although public access is generally presumed, the Ninth Circuit has recognized an exception for a “sealed discovery document attached to a non-dispositive motion” such that ‘the usual presumption of the public’s right of access is rebutted.’” *Id.* (emphasis in original) (quoting *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002)). Where a party seeks to keep sealed documents attached to a non-dispositive motion, “[a] ‘good cause’ showing under Rule 26(c) will suffice.” *Id.* at 1180. Good cause exists under Rule 26(c) if the movant makes a “particularized showing” that the need for confidentiality outweighs the need for public discovery. *Id.* (citation omitted); see also Fed. R. Civ. P. 26(c)(1)(G) (permitting courts to enter protective order to prevent dissemination of “trade secret or other confidential research, development or commercial information”).

Good cause exists to file under seal Exhibit A to the Motion for Reconsideration, in addition to the portions of that Motion discussing those alerts. This document that has been designated by Wells Fargo as “Highly Confidential,” which the parties’ Stipulated Protective Order defines as:

[C]ontain[ing] or reflect[ing] information that the producing party claims in good faith constitutes confidential financial information of an individual, trade secrets, confidential financial or business plans or strategies, or other highly sensitive,

1 personal or proprietary information that may cause competitive, commercial or
 2 financial injury if disclosed beyond the disclosures allowed in paragraph 8(d),
 3 below.

4 ECF No. 25, ¶ 8(b), attached hereto as **Exhibit A**. Paragraph 8(d) directs that discovery materials
 5 designated as “HIGHLY CONFIDENTIAL” should be filed “under seal using the Court’s
 6 electronic filing procedures.” *See id.* at ¶¶ 8(c)(i), 8(d), 12(a).

7 Exhibit A to the Motion for Reconsideration, attached hereto as **Composite Exhibit B**,
 8 represents information produced by Wells Fargo designated as “HIGHLY CONFIDENTIAL”
 9 because it allegedly contains Wells Fargo’s “trade secrets, confidential financial or business plans
 10 and strategies, or other highly sensitive, personal or proprietary information that may cause
 11 competitive, commercial or financial injury.” *See Exhibit A, ¶ 8(b).* But that document, in addition
 12 to any discussion of its contents, are necessary for the Court to evaluate Plaintiffs’ request that
 13 Wells Fargo be required to produce its User Guides that pertain to the automated account
 14 monitoring software. In particular, Exhibit A is the newly produced evidence that calls into
 15 question the functionality of Wells Fargo’s automated account monitoring software – necessitating
 16 the Court’s reconsideration of its Order denying Plaintiffs’ request to compel the production of the
 17 User Guides, especially given Wells Fargo’s recent representation that it could not suppress alerts.
 18 Indeed, and according to the Motion for Reconsideration, the User Guides would show (a) whether
 19 Wells Fargo actually possessed the ability to suppress alerts (either bank-wide or specifically as to
 20 Daniel Maza-Noriega’s accounts); (b) who may authorize any such suppression; (c) the timeframe
 21 for the suppression; and (d) the types of activities deemed acceptable for suppression. Thus, the
 22 Court’s review of Exhibit A to the Motion is necessary to rule on Plaintiffs’ request for
 23 reconsideration, and therefore provides good cause for the Court to permit Plaintiffs to file that
 24 exhibit under seal. Fed. R. Civ. P. 26(c)(1)(G).

25 Accordingly, and consistent with *Kamakana* and the parties’ Stipulated Protective Order,
 26 Plaintiffs respectfully request that the Court permit Plaintiffs to file under seal Exhibit A to the
 27 Motion for Reconsideration, in addition to Plaintiffs’ discussion of that document included in the
 28 Motion and any other exhibits attached thereto.

LIST OF EXHIBITS

EXHIBIT	DOCUMENT	BATES NO.
A	ECF No. 25	EXH 001 – EXH 018
B	Exhibit A to the Motion for Reconsideration	EXH 019 – EXH 021

By: /s/ Anthony P. Sgro
SGRO & ROGER
720 S. 7th Street, 3rd Floor
Las Vegas, Nevada 89101
Anthony P. Sgro, Bar No. 3811
tsgro@sgroandroger.com
Colleen N. Savage, Bar No. 14947
csavage@sgroandroger.com

AND

AXS LAW GROUP, PLLC
2121 NW 2nd Avenue, Suite 201
Miami, Florida 33127
Jeffrey W. Gutchess
Florida Bar No. 702641
jeff@axslawgroup.com
Courtney Caprio
Florida Bar No. 933961
courtney@axslawgroup.com
Andrew E. Beaulieu
Florida Bar No. 115097
andy@axslawgroup.com
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 21st day of October, 2021, I served a true and correct copy
3 of the foregoing PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBIT A TO
4 PLAINTIFFS' MOTION FOR RECONSIDERATION through the Court's CM/ECF System,
5 which sent an electronic notification to the following below.

6 Jeffrey Willis, Esq.
7 Erica J. Stutman, Esq.
8 SNELL & WILMER L.L.P.
9 3883 Howard Hughes Pkwy., Suite 1100
10 Las Vegas, NV 89169
11 jwillis@swlaw.com
12 estutman@swlaw.com

13 _____
14 */s/ Sarena Woods*
15 An Employee of Sgro & Roger

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